

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

TENTATIVE RESOLUTION NO. R9-2015-0008

A RESOLUTION APPROVING AN AMENDMENT TO THE *WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO BASIN (9)* TO CHANGE THE NITRATE WATER QUALITY OBJECTIVE FOR GROUNDWATERS, INCORPORATE THE ONSITE WASTEWATER TREATMENT SYSTEMS POLICY AND TO INCORPORATE MISCELLANEOUS UPDATES

WHEREAS, the California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), finds that:

1. The Water Boards have the authority to formulate and adopt water quality control plans, establish water quality objectives, and develop implementation plans under Water Code sections 13240, 13241 and 13242. Water quality objectives are defined under state law as “the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.” (Wat. Code, § 13050, subd. (h).) The water quality standards for waters in the San Diego Region are established in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan). Water quality standards include beneficial uses, water quality objectives that are established pursuant to Water Code section 13241 at levels sufficient to protect those beneficial uses, and an antidegradation policy to regulate discharges to waters of the state to achieve the highest “water quality consistent with the maximum benefit to the people of the State.”¹ Pursuant to Water Code section 13242, the Basin Plan also establishes implementation programs needed for achieving water quality objectives, specifies certain conditions or areas where the discharge of waste, or certain types of waste, are prohibited, and incorporates statewide plans and policies adopted by the State Water Resources Control Board (State Water Board).

¹ State Water Resources Control Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Of Waters in California*.

2. The Basin Plan was adopted by the San Diego Water Board on September 8, 1994, and has been amended periodically, each time with approval by the State Water Board, the Office of Administrative Law (OAL) and the United States Environmental Protection Agency (U.S. EPA), where required.
3. The Basin Plan amendment, including specifications on its physical placement in the Basin Plan, is set forth in Attachment A hereto and consists of the following:
 - (a) Revisions to Chapter 3 to change the water quality objectives for nitrate in groundwaters in all hydrologic areas with a set numeric limit in the San Diego Region to 45 milligrams per liter as nitrate (mg/L as NO₃) with the exception to the Warner Valley Hydrologic Area where the nitrate water quality objective in groundwaters will remain at 5 mg/L as NO₃;
 - (b) Revisions to Chapter 4 to update the implementation plan regarding regulation of Onsite Wastewater Treatment Systems (OWTS) in the San Diego Region by incorporating the statewide OWTS policy adopted by the State Water Board; update all relevant text and make corrections to other sections regarding waste discharge requirements; add implementation provisions for the nitrate water quality objective in groundwater to protect surface water quality where groundwater and surface water are interconnected;
 - (c) Revisions to Chapter 5 to add descriptions of new Water Board policies and resolutions and to delete expired resolutions;
 - (d) Deletions of expired conditional waivers in Appendix D; and
 - (e) Minor non-substantive changes to ensure consistency and formatting integrity are maintained once all changes are incorporated into the Basin Plan.
4. Pursuant to Public Resources Code section 21080.5, the Natural Resources Agency has approved the San Diego Water Board's basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) requirements (Public Resources Code section 21000 et seq; 14 CCR section 15251(g)) for preparing environmental documents (23 CCR sections 3777-3781).

5. The State Water Board adopted the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy) on June 12, 2012. The OWTS Policy establishes a statewide, risk-based, tiered approach for the regulation and management of OWTS installations and replacements and sets the level of performance and protection expected from OWTS. The OWTS Policy was approved by the OAL on November 13, 2012 and became effective on May 13, 2013.
6. The State Water Board prepared substitute environmental documentation (SED) for the OWTS Policy in accordance with the Water Boards' certified regulatory program (Public Resources Code, section 21000 et seq; 14 CCR section 15251(g)). This Basin Plan amendment removes existing Basin Plan provisions regulating onsite systems and incorporates the OWTS Policy without making substantive changes or modifications to the OWTS Policy. As described in the SED for this Basin Plan amendment, the San Diego Water Board was not required to and has not conducted further analysis of the environmental impacts associated with the amendments to incorporate the OWTS Policy or of the non-substantive, non-regulatory changes to the Basin Plan.
7. The SED for this Basin Plan amendment includes a technical report and environmental CEQA checklist completed by San Diego Water Board staff that evaluates the environmental effects of the Basin Plan amendment's revisions to the water quality objectives for nitrate as NO₃ in groundwater and implementation measures. As such, the SED that supports the San Diego Water Board's basin planning action contains the required environmental documentation under CEQA. San Diego Water Board staff concluded that the Basin Plan amendment could not have a significant effect on the environment, and therefore, no alternatives or mitigation measures are proposed.
8. The water quality objective of 45 mg/L as NO₃ is a maximum contaminant level (MCL) established by the State Board Division of Drinking Water (formerly California Department of Public Health) and is based on a level that is protective of human health. This standard is protective of the beneficial use for municipal and domestic supply.

9. Incorporating the OWTS Policy into the Basin Plan is required by the OWTS Policy as adopted by the State Water Board and will allow the San Diego Water Board to utilize the conditional waivers of waste discharge requirements contained in the OWTS policy. Modifying the water quality objective for nitrate as NO_3 in groundwater will eliminate the need to impose requirements for additional costly treatment to remove nitrate to meet existing water quality objectives in groundwater that are more stringent than the drinking water standard.
10. Water Code section 13241 requires the San Diego Water Board to establish, with consideration of enumerated factors, water quality objectives that will ensure the reasonable protection of beneficial uses and the prevention of nuisance. In establishing revised nitrate objectives for groundwaters, the San Diego Water Board considered each of the factors specified in Water Code section 13241, including economic considerations. The San Diego Water Board finds that modification of the groundwater quality objective for nitrate will provide region wide economic benefits.
11. Pursuant to Water Code section 13269 the conditional waivers of waste discharge requirements for specified types of discharge within the San Diego Region that are described in Appendix D of the Basin Plan expired on February 3, 2014 and are therefore of no regulatory effect and should be deleted.
12. Water Code section 13242 specifies factors for Basin Plan implementation, and implementation measures in permits are necessary to ensure discharges of nitrate to land and/or groundwater do not pollute or cause nuisance in interconnected surface waters and impair their beneficial uses.
13. Raising the nitrate water quality objective in groundwater to 45 mg/L as NO_3 , revising corresponding implementation sections of the Basin Plan, and incorporating the OWTS Policy into the Basin Plan, are actions consistent with the State's Antidegradation Policy (State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California") because such changes are consistent with the maximum benefit of the public, will not unreasonably affect present and anticipated beneficial use of waters and will comply with the requirements of the Basin Plan.

14. The San Diego Water Board's Practical Vision strives to achieve a sustainable local water supply while concurrently ensuring that water quality supports beneficial uses and calls for increasing the use of recycled water. Use of recycled water is important for achieving a sustainable local water supply. The Basin Plan amendment will encourage wider use of recycled water by reducing the cost to lower nitrate levels in the production and discharges of recycled water.
15. The regulatory action proposed meets the "Necessity" standard of Government Code section 13353, subdivision (b).
16. The San Diego Water Board has notified all known interested parties, the public and public agencies with jurisdiction in the San Diego Region of its intent to consider adoption of this Basin Plan amendment in accordance with Water Code section 13244 and Title 40 Code of Federal Regulations part 25. The San Diego Water Board held a CEQA scoping meeting on July 31, 2014 and a public workshop on January 23, 2015. The San Diego Water Board issued a Notice of Filing and circulated a Notice of Public Hearing for the Draft SED and Basin Plan amendment. The documents were available for at least 45 days for public review and comment in accordance with state and federal environmental regulations.
17. The San Diego Water Board held a public hearing on April 15, 2015 for the purpose of receiving testimony on the Basin Plan amendment and supporting documents. The San Diego Water Board considered all timely submitted written comments and all oral comments at the public hearing and prepared written responses to comments.
18. Based on the record as a whole, including the draft Basin Plan amendment, accompanying written documentation, the SED and public comments received, the San Diego Water Board concurs with staff's conclusion that the amendment will result in no significant effect on the environment and therefore no alternatives or mitigation measures are proposed.

19. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The San Diego Water Board hereby approves the Substitute Environmental Documentation that includes a technical report and environmental documentation prepared in conformity with the CEQA regulations pertaining to Certified Regulatory Programs and directs the Executive Officer to sign the environmental checklist.
2. Pursuant to Water Code section 13240, et seq., the San Diego Water Board, after considering the record, including oral testimony at the hearing, hereby approves the Amendment to the Basin Plan set forth in Attachment A.
3. The San Diego Water Board Executive Officer is directed to submit this Basin Plan amendment to the State Water Board for approval in accordance with Water Code section 13245.
4. The San Diego Water Board requests the State Water Board approve the Basin Plan amendment in accordance with requirements of Water Code sections 13245 and 13246 and forward it to OAL.
5. If, during the approval process for this amendment, the San Diego Water Board, State Water Board, or OAL determines that minor, nonsubstantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the San Diego Water Board of any such changes.
6. Following approval of the Basin Plan amendment by OAL, the Executive Officer shall file a Notice of Decision with the Secretary for Resources in accordance with Public Resources Code section 21080.5(d)(2)(E) and California Code of Regulations, title 23, section 3781.

Item 8
Supporting Document 1
April 15, 2015

Tentative Resolution No. R9-2015-0008

April 15, 2015

I, David W. Gibson, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Diego Region, on April 15, 2015.

Tentative

DAVID W. GIBSON
Executive Officer

Attachment: A. Revisions to Basin Plan Chapters 3, 4, 5, and Appendix D

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ATTACHMENT A

Revisions to Basin Plan Chapters 3, 4, 5, and Appendix D